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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,686	03/19/2004	Richard J. Morris	1915.17US03	8616

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EXAMINER

SLACK, NAKO N

ART UNIT PAPER NUMBER

3635

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/805,686

**Applicant(s)**

MORRIS, RICHARD J.

**Examiner**

Naoko Slack

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-21 is/are allowed.
- 6) ☒ Claim(s) 1, 14 and 22 is/are rejected.
- 7) ☒ Claim(s) 2-13 and 23-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/16/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Preliminary Amendment***

In view applicant's preliminary amendment received March 19, 2004, amendments to the claims have been entered and examined. Claims 1-25 are pending.

### ***Information Disclosure Statement***

Applicant's information disclosure statement received March 16, 2005 has been entered and considered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by UK Patent Application GB 2062056A to Neumann.

Claim 1:

Neumann discloses a tile roof system comprising an overlayment (page 1, line 7), a tile (page 1, line 14), and a batten (page 1, lines 59-62) disposable between the tile and the overlayment, the batten comprising at least one layer comprising a generally planar first ply (bottom planar portion, Figure 5) and a

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second ply (inverted V-shaped portion, Figure 5), the first and second plies cooperating to define a multiplicity of passages (1, Figure 5) extending generally transversely to a longitudinal axis of tile batten.

Claim 14:

Neumann discloses the method of installing a tile on a roof with a slope, comprising the steps of providing first and second battens (page 1, line 65), each batten comprising at least one layer of a material comprising first (bottom planar portion, Figure 5) and second plies (inverted V-shaped portion, Figure 5) defining a multiplicity of air passages therethrough (1, Figure 5), the passages extending generally transversely to a longitudinal axis of the batten (page 1, lines 59-62), fixing the first and second battens on the roof such that longitudinal axes of the first and second battens are generally parallel and extend generally horizontally to the roof slope; and fixing the tile atop the first and second battens (page 1, lines 13-14).

Claim 22 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by US Patent 3647606 to Notaro.

Claim 22:

Notaro discloses a multi-layered member capable of being disposed between a roof decking and an exterior roof material, the member comprising a plurality of stacked, completely separate layers (21, 22, 23, Figure 7) fastened together by stitching (column 4, line 58), each layer comprising a generally planar first ply (21, Figure 7) and a second ply (22, Figure 7) cooperating with the first ply

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to define a multiplicity of passages, the passages extending generally transversely to a longitudinal axis of the spacer.

***Allowable Subject Matter***

Claims 2-13 and 23-25 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-21 are allowed.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose telephone number is (571) 272-6848. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Naoko Slack', with a stylized, cursive script.

Naoko Slack  
Primary Examiner  
Art Unit 3635

NS  
April 13, 2005